

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.317 OF 2005  
IN  
REVIEW PETITION NO.56 OF 2004  
IN  
WRIT PETITION NO.1312 OF 2004

Johnson and Johnson Employees  
Union and others

Appellants

versus

M/s.Johnson and Johnson Ltd.  
and others

Respondents

Mr.V.V.Walawalkar i/by Geeta Mulekar for  
appellant.

Mr.M.S.Naik with Shailesh More for respondent  
no.1

Mr.J.P.Cama with Mr.Ajit Kapadia with  
Mr.G.S.Shetty i/by Cr.Beylay & Co. for  
respondent no.2.

CORAM : DR.S.RADHAKRISHNAN AND  
S.C.DHARMADHIKARI, JJ.

DATE : 6th September 2005

PC :

1. Heard learned counsel for the appellant and the respondents. By this appeal the appellant is challenging the order dated 14th July 2004 passed by the learned Single Judge declining to interfere with the order of Industrial Court, and also the order dated 3rd December 2004 passed by

the learned Single Judge in the Review Petition which was rejected.

2. The learned counsel Mr.Walawalkar contends that the purchase agreement dated 10th August 1999 whereby respondent no.2 had purchased the running business of respondent no.1 along with the lease rights as well as the deed of assignment dated 29th December 1999 entered into between respondent nos.1 and 2, does not transfer inasmuch as the deed of assignment which has been lodged with the Sub Registrar, has still not been registered. The learned counsel Mr.Walawalkar submitted that the Industrial Court proceeded on the basis of the submissions of the respondents that there was a registered sale deed and even before the learned Single Judge.

3. Mr.Walawalkar also fairly conceded that as far as service conditions of the workmen are concerned i.e. with regard to their salaries etc., respondent no.2 has not committed any breach with regard to the same. The only contention of Mr.Walawalkar is that there is no valid transfer of business by respondent no.1 to respondent no.2. Under these circumstances, it would amount to an unfair labour practice as per

MRTU & PULP Act, and therefore, he submits that the employees continue to be the employees of respondent no.1 and not of respondent no.2.

4. We have perused the order of learned Single Judge passed in the above writ petition, especially the learned Single Judge has given detailed reasoning in paragraphs 9, 15 and 24 and has clearly concluded that as far as second respondent is concerned, the second respondent has assumed the obligation of performing all the covenants that bind the first respondent in respect of the terms and conditions of service of the workmen under the settlements that were entered into by the first respondent with the Union. Mr.Walawalkar states that there is no interruption in the service of the workmen.

5. Mr.Walawalkar also strongly relied upon a judgement of Hon'ble Supreme Court in Ram Saran Lall Vs. Domini Kuer reported in AIR-1961-SC-1747 to contend that unless and until there is a proper registration of sale deed as per Registration Act, there is no transfer and as such he contends that the appellant union employees continue to be the employees of respondent no.1.

6. Having regard to the facts and circumstances of the case and especially when there is absolutely no material to indicate that there has been an unfair labour practice adopted against the employees of appellant union and in fact, Mr.Walawalkar fairly states that as far as conditions of service are concerned the employees are working and that there is no breach of any service conditions. Over and above, before both the Industrial Court and the learned Single Judge, there was no contention that there was no proper transfer, hence it amounted to an unfair labour practice. We do not find any ground to interfere with the order of learned Single Judge. Appeal stands dismissed.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)